

BAY COUNTY ELECTION COMMISSION

MAY 8, 1991

FRANKENLUST TWP. CLARITY

THE BAY COUNTY ELECTION COMMISSION MET WEDNESDAY, MAY 8, 1991, IN THE COMMISSIONER'S GROUND FLOOR CONFERENCE ROOM OF THE BAY COUNTY BUILDING FOR THE PURPOSE OF DETERMINING CLARITY OF RECALL PETITIONS FILED IN REGARD TO FRANKENLUST TOWNSHIP OFFICIALS. THE MEETING WAS CALLED TO ORDER BY THE CHAIRMAN OF THE COMMISSION, JUDGE PAUL N. DONER, AT 1:40 P.M. THE FOLLOWING MEMBERS AND GUESTS WERE IN ATTENDANCE.

ROLL CALL: PAUL N. DONER, PROBATE JUDGE
 GEORGE MULLISON, PROSECUTOR
 BARBARA ALBERTSON, CLERK
 CYNTHIA A. LUCZAK, SECRETARY
 KEN WRIGHT, ATTORNEY
 JOHN PIGGOTT, ATTORNEY
 NORBERT BEGICK, SUPERVISOR
 ALVIN APPOLD, TWP. CLERK
 IRA SCHMIDT, TWP. TREASURER
 WILSON BERGER, TWP. TRUSTEE

PETITIONER GARY KERSTEN WAS NOT PRESENT AT THE CLARITY HEARING UPON BEING NOTIFIED IN ACCORDANCE WITH STATE STATUTE. TRUSTEE ROY SCHMIDT ALSO ABSENT.

JUDGE DONER OFFERED TO RECEIVE PUBLIC COMMENTS PURSUANT TO THE MICHIGAN OPEN MEETINGS ACT.

ATTORNEY FOR THE TOWNSHIP OFFICIALS, KEN WRIGHT, OBJECTED TO THE SUFFICIENCY OF THE WORDING ON THE RECALL PETITION ON BEHALF OF HIS CLIENTS. MR. WRIGHT PROVIDED BACKGROUND INFORMATION IN REGARD TO THE PROPOSED DELTA ROAD, M-84 AND THREE MILE ROAD SANITARY SEWER PROJECT, INDICATING THE IMPLEMENTATION OF THE PROJECT HAD BEEN RESEARCHED SINCE 1980-1981. MR. WRIGHT REFERRED TO TOWNSHIP MEETINGS HELD IN JULY OF 1990 WHEREBY INPUT FROM THE TOWNSHIP RESIDENTS EVIDENCED A FAVORABLE ENDORSEMENT OF THE PROJECT. BONDING RESOLUTIONS THEREAFTER WERE ADOPTED BY TOWNSHIP BOARD AND BAY COUNTY BOARD OF COMMISSIONERS. REFERENDUM PETITIONS COMPILED BY MR. KERSTEN HAD NOT BEEN ACCEPTED BY THE TOWNSHIP BOARD AS THE BOARD DETERMINED THEY DID NOT MEET STATUTORY GUIDELINES. CIRCUIT COURT RULINGS SUPPORTED THE FINDINGS OF THE TOWNSHIP BOARD. MR. WRIGHT ALSO PRESENTED DOCUMENTS IN SUPPORT OF HIS POSITION, TO THE COMMISSION. CITED WAS A LETTER SUBMITTED TO WILLIAM REDER, CHAIRMAN OF THE BOARD OF COMMISSIONERS. IN HIS OPINION, THE "FISCAL IRRESPONSIBILITY" CITED IN THE PETITION, WAS NOT WARRANTED BY OFFICIALS DOING THEIR JOBS.

THE PORTSMOUTH TOWNSHIP RECALL PETITIONS FORMERLY CONSIDERED BY THE COMMISSION WERE ALSO COMPARED TO THE ISSUE IN FRANKENLUST.

ATTORNEY, JOHN PIGGOTT, REINFORCED THE FACT THE TOWNSHIP BOARD COMPLIED WITH STATE STATUTES IN EVERY PHASE OF THE SEWER PROJECTS CONSIDERATION. FURTHER, MR. KERSTEN HAD BEEN ALLOWED TO SEEK RECOURSE UNDER THE REFERENDUM LAWS BUT WAS DENIED SAID RECOURSE WHEN THE PETITIONS WERE CONSIDERED INSUFFICIENT, NOT MEETING STATUTORY REQUIREMENTS. TO CONCLUDE, MR. PIGGOTT STATED THE TOWNSHIP BOARD DID NOTHING MORE THAN TO DO WHAT THEY MAY DO UNDER THE STATUTE, NOT CAUSING ANY FISCAL IRRESPONSIBILITY. DECISIONS OF THE TOWNSHIP BOARD HAD BEEN BASED ON THE RECOMMENDATIONS OF LEGAL COUNSEL, HEALTH DEPT AND OTHER EXPERTS IN THE FIELD.

BOND AMOUNT AND TOTAL PROJECT COST WAS REVIEWED.

CHAIRMAN DONER VOICED HIS COMMENTS AT THIS TIME. THAT THE ROLE OF THE ELECTION COMMISSION WAS TO DETERMINE THE CLARITY, AND THESE PETITIONS SUBMITTED FOR THE RECALL OF FRANKENLUST TOWNSHIP OFFICIALS WERE NOT CLEAR IN HIS OPINION.

MOTION 1: CHAIRMAN DONER MOVED THE FIVE (5) RECALL PETITIONS SUBMITTED IN REGARD TO FRANKENLUST TOWNSHIP OFFICIALS BE REJECTED. CLERK ALBERTSON SUPPORTED THE MOTION AND IT WAS CARRIED BY A UNANIMOUS ROLL CALL VOTE-3 YEAS, 0 NAYS.

AS THE PETITIONS HAD BEEN DENIED BY THE ELECTION COMMISSION, CLERK ALBERTSON WAS ASKED TO NOTIFY PETITIONER KERSTEN & TOWNSHIP TRUSTEE, ROY SCHMIDT.

MOTION 2: CLERK ALBERTSON MOVED TO ADJOURN THE CLARITY HEARING. GEORGE MULLISON SUPPORTED THE MOTION AND IT WAS PASSED BY UNANIMOUS ROLL CALL VOTE - 3 YEAS, 0 NAYS.

RESPECTFULLY SUBMITTED



BARBARA ALBERTSON
BAY COUNTY CLERK